



February 10, 1999

Ms. Christine Lanners  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
Municipal Building  
Dallas, Texas 75201

OR99-0412

Dear Ms. Lanners:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121975.

The Dallas Police Department (the "department") received a request for a copy of the internal affairs file of a former police officer. You submitted to this office for review documents that you indicate are responsive to the request. The documents include criminal history record information ("CHRI") that you assert is protected from disclosure under section 552.101 of the Government Code, and also information concerning an investigation that you contend is protected from disclosure under section 552.108 of the Government Code.

We agree that the information you assert is protected under section 552.101 of the Government Code is confidential. Section 552.101 applies to information that is made confidential by law, including information made confidential by statute. Title 28, Part 20 of the Code of Federal Regulations governs the release of CHRI which states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (the "DPS") maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov't Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies).

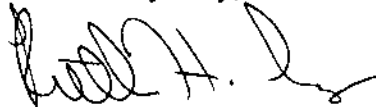
Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose, *id.* § 411.089(b)(1). Other entities specified in Chapter 411 of the Government Code are entitled to obtain CHRI from DPS or

another criminal justice agency; however, those entities may not release the information except as provided by Chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* Open Records Decision No. 565 (1990). Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F.

You assert that one of the submitted documents dated July 1996 is protected under section 552.108(a)(1) because "release would unduly interfere with law enforcement or crime prevention." Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977). You have not stated that the submitted document pertains to an ongoing criminal investigation or prosecution, or provided any explanation as to why release would unduly interfere with law enforcement or crime prevention. As it is not apparent to this office that release of the document would unduly interfere with the detection, investigation, or prosecution of crime, nor have you explained how its release would so interfere, the document must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref: ID# 121975

Enclosures: Submitted documents

cc: Mr. Robert Evans  
500 Turtle Creek, Suite 215  
Rockwall, Texas 75087  
(w/o enclosures)